

Message Text

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PAGE 01 STATE 168066

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TAGS: EAIR, UK

SUBJECT: CIVAIR: US-UK AVIATION RELATIONS - RENEGOTIATION
OF BERMUDA AGREEMENT

REF: STATE 155147

TEXTS OF UK EMBASSY NOTE OF JUNE 22, 1976, SERVING NOTICE
OF TERMINATION OF US-UK AIR SERVICES AGREEMENT AND DEPART-
MENT'S NOTE OF REPLY OF JUNE 30, 1976, FOLLOW:

A. QUOTE SIR, I HAVE THE HONOUR TO REFER TO THE FINAL
ACT OF THE CIVIL AVIATION CONFERENCE HELD AT BERMUDA, 15TH
JANUARY - 11TH FEBRUARY, 1946 AND AGREEMENT BETWEEN THE
GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED STATES
OF AMERICA RELATING TO AIR SERVICES BETWEEN THEIR RESPEC-
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PAGE 02 STATE 168066

TIVE TERRITORIES WITH ANNEX BERMUDA, 11TH FEBRUARY, 1946,

AS AMENDED, HEREINAFTER REFERRED TO AS "THE BERMUDA AGREEMENT".

QUOTE THE BERMUDA AGREEMENT HAS OVER THE YEARS BECOME OUT OF DATE IN A NUMBER OF RESPECTS AND NO LONGER CORRESPONDS SATISFACTORILY IN THE VIEW OF HER MAJESTY'S GOVERNMENT TO THE CONDITIONS OF THE 1970S. IT HAS BEEN

EVIDENT FOR SOME TIME THAT THE BENEFITS THE BERMUDA AGREEMENT CONFERS ON THE UNITED STATES ARE MUCH IN EXCESS OF THE BENEFITS TO THE UNITED KINGDOM. DURING RECENT YEARS, THERE HAS BEEN A CLOSER APPROXIMATION TO A BALANCE OF EARNINGS FROM THE RIGHTS TO OPERATE SERVICES ACROSS THE NORTH ATLANTIC: BUT IT IS CLEAR THAT A SUBSTANTIAL REVISION OF THE RIGHTS CONFERRED BY THE BERMUDA AGREEMENT IS NEEDED IN ORDER TO ACHIEVE A MORE EQUITABLE BALANCE OF BENEFITS OVERALL.

QUOTE IN ADDITION, THE BERMUDA AGREEMENT NEEDS IMPROVEMENT IN A NUMBER OF RESPECTS IN ORDER TO MAKE IT FUNCTION MORE EFFICIENTLY. THE BERMUDA AGREEMENT WAS THE FIRST MAJOR AIR SERVICES AGREEMENT TO BE NEGOTIATED AFTER THE SECOND WORLD WAR. ITS WORDING IS CONSEQUENTLY LESS PRECISE THAN THAT OF MORE RECENT AGREEMENTS TO WHICH THE BENEFITS OF EXPERIENCE HAVE BEEN APPLIED. A MORE UP TO DATE TEXT IS ALSO NEEDED TO PREVENT THE DIFFICULTIES THAT HAVE INCREASINGLY BEEN ENCOUNTERED IN ITS INTERPRETATION AND IMPLEMENTATION. PARTICULAR EXAMPLES ARE THE PROVISIONS RELATING TO CAPACITY AND TO FARES.

QUOTE THE CAPACITY PROVISIONS OF THE AGREEMENT, AS INTERPRETED UP TO 1974, WORKED WELL IN THE EARLY POST-WAR YEARS BUT PROVED INADEQUATE TO WITHSTAND THE STRAIN OF SUBSEQUENT EVENTS. BY THE EARLY YEARS OF THIS DECADE, THE EXCESSIVE CAPACITY HAD LED TO A SERIOUS WASTE OF RESOURCES, CONSIDERABLE DAMAGE TO THE FINANCIAL POSITION OF THE AIRLINES, AND HIGHER FARES TO THE TRAVELLING PUBLIC THAN WOULD OTHERWISE HAVE BEEN REQUIRED. THESE DIFFICULTIES WERE EXACERBATED BY THE FUEL CRISIS AND SUBSEQUENT SLACKENING IN DEMAND. THE UNDERSTANDINGS LIMITED OFFICIAL USE

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PAGE 03 STATE 168066

REACHED IN 1974 AND 1975 FOR ESTABLISHING A CLOSE RELATIONSHIP BETWEEN THE CAPACITY AND THE DEMAND NEED TO BE CONSOLIDATED INTO A NEW AGREEMENT AND SYSTEMATIC PROCEDURES ESTABLISHED FOR IMPLEMENTING THEM.

QUOTE THE PROVISIONS OF THE BERMUDA AGREEMENT REGARDING THE ESTABLISHMENT OF AIRLINE TARIFFS PROVED UNWORKABLE AND HAVE FOR MANY YEARS USUALLY BEEN DISREGARDED. THE

PRACTICAL CONSEQUENCE HAS BEEN, AS RECENT EVENTS HAVE DEMONSTRATED, THAT ONE OF THE PARTIES MAY ACT UNILATERALLY, WITHOUT CONSULTATION, AND WITHOUT ANY BASIS IN THE BERMUDA AGREEMENT FOR SUCH ACTION, ONLY A FEW HOURS BEFORE NEW FARES ARE DUE TO COME INTO EFFECT. THIS HAS REPERCUSSIONS ON THE WHOLE FARES STRUCTURE ON THE VERY IMPORTANT NORTH ATLANTIC ROUTES. TO ENSURE AGREED TIMELY RESOLUTION OF SUCH DIFFICULTIES A FRESH SYSTEM NEEDS TO BE DEVISED.

QUOTE HER MAJESTY'S GOVERNMENT BELIEVE THAT THE TIME HAS COME TO RENEGOTIATE THE BERMUDA AGREEMENT AS A WHOLE. ACCORDINGLY, THEY REQUEST CONSULTATIONS UNDER THE TERMS OF ARTICLE 13 AND, PENDING THE OUTCOME OF SUCH CONSULTATIONS, THEY SERVE NOTICE OF TERMINATION OF THE BERMUDA AGREEMENT, AS AMENDED BY THE EXCHANGES OF NOTES OF 20 DECEMBER 1946 AND 27 JANUARY 1947, OF 21 AND 23 MAY 1947, OF 14 JANUARY 1948, OF 4 AND 16 AUGUST 1955, OF 17 AND 30 OCTOBER 1956, OF 2 AND 28 DECEMBER 1956 AND OF 27 MAY 1966. SUCH NOTICE WILL RUN FOR 12 MONTHS FROM THE DATE OF RECEIPT OF THIS NOTE. HER MAJESTY'S GOVERNMENT WILL WORK CONSTRUCTIVELY WITH THE UNITED STATES AUTHORITIES IN ORDER TO ENSURE THE ESTABLISHMENT OF A MORE EQUITABLE AND RATIONAL AGREEMENT.

QUOTE HER MAJESTY'S GOVERNMENT ARE INFORMING THE INTERNATIONAL CIVIL AVIATION ORGANIZATION OF THIS DECISION, IN ACCORDANCE WITH THE TERMS OF THE BERMUDA AGREEMENT.

QUOTE I AVAIL MYSELF OF THIS OPPORTUNITY TO RENEW TO YOU, SIR, THE ASSURANCES OF MY HIGHEST CONSIDERATION PETER RAMSBOTHAM, HM AMBASSADOR UNQUOTE

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PAGE 04 STATE 168066

B. TEXT OF DEPARTMENT NOTE: QUOTE EXCELLENCY: I HAVE THE HONOR TO REFER TO YOUR NOTE OF JUNE 22, 1976, RECEIVED THE SAME DAY, REQUESTING CONSULTATIONS UNDER THE PROVISIONS OF ARTICLE 13 OF THE AIR SERVICES AGREEMENT BETWEEN OUR TWO COUNTRIES AND SERVING NOTICE OF TERMINATION OF THAT AGREEMENT. ACCORDING TO ARTICLE 13, THE EFFECTIVE DATE OF TERMINATION OF THE AGREEMENT WILL BE TWELVE MONTHS AFTER RECEIPT OF NOTICE.

QUOTE THE UNITED STATES GOVERNMENT HAS TAKEN NOTE OF THE REASONS PRESENTED BY HER MAJESTY'S GOVERNMENT FOR THE FOREGOING ACTION. WHILE THESE REASONS WILL, NO DOUBT, BE DISCUSSED IN DETAIL DURING THE COURSE OF THE CONSULTATIONS, THE UNITED STATES GOVERNMENT WISHES TO POINT OUT THAT IT DOES NOT SHARE THE VIEW THAT THE DIFFICULTIES

WHICH HAVE ARISEN IN OUR CIVIL AVIATION RELATIONS ARE
DUE TO BASIC DEFICIENCIES IN THE AIR SERVICES AGREEMENT,
NOR DOES IT AGREE THAT A SUBSTANTIAL REVISION OF THE
ROUTE RIGHTS CONFERRED BY THE AGREEMENT IS NECESSARY AT
THIS TIME.

QUOTE THE UNITED STATES GOVERNMENT WISHES TO ASSURE YOU
THAT IT WILL JOIN WITH HER MAJESTY'S GOVERNMENT IN
WORKING CONSTRUCTIVELY TO CONSLUDE AN AGREEMENT WHICH
IS EQUITABLE FOR BOTH COUNTRIES AND FOR THE TRAVELING
PUBLIC AND SHIPPING PUBLIC.

QUOTE ACCEPT, EXCELLENCY, THE RENEWED ASSURANCES OF
MY HIGHEST CONSIDERATION. FOR THE SECRETARY OF STATE:
JOSEPH A. GREENWALD. UNQUOTE

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